



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: DD2/90/12

Re : 3 Briarwood Terrace, Dundee DD2 1NX (hereinafter referred to as "the house")

The Parties:

Lee Krzyzanowski, 3 Briarwood Terrace, Dundee DD2 1NX ("the Tenant")

Springfield Properties Group Limited, incorporated under the Companies Acts (SC305697) and having their Registered Office at c/o Accel Business Llp, 4 Valentine Court, Dunsinane Industrial estate, Dundee DD2 3QB ("the Landlord")

NOTICE TO SPRINGFIELD PROPERTIES GROUP LIMITED ("the Landlord")

Whereas in terms of their decision dated 9 May 2013, the Private Rented Housing Committee ("the Committee") determined, in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee on 12 July 2012, as varied by a Variation of Repairing Standard Enforcement Order made by the Committee on 1 March 2013.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 25% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act.

A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

In witness whereof these presents typewritten on this page are executed by George Barrie Clark solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on 30 April 2013 before this witness Valerie Elizabeth Jane Clark, 7 Newbattle Terrace, Edinburgh:-

V Clark witness

G Clark chairman



Statement of decision of the Private Rented Housing Committee under Section 26 of the Housing (Scotland) Act 2006

prhp Ref: DD2/90/12

Re : Property at 3 Briarwood Terrace, Dundee DD2 1NX ("the Property")

The Parties:-

Lee Krzyzanowski, 3 Briarwood Terrace, Dundee DD2 1NX ("the Tenant")

Springfield Properties Group Limited, incorporated under the Companies Acts (SC305697) and having their Registered Office at c/o Accel Business Llp, 4 Valentine Court, Dunsinane Industrial Estate, Dundee DD2 3QB ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by the Tenant and the Landlord at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 27 April 2012 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) the house is wind and water tight and in all other respects fit for human habitation; and
 - (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
3. By letter dated 10 May 2012 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22(1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant (by letter dated 17 May 2012), made written representations to the Committee. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee ("The Committee") inspected the Property on the morning of 12 July 2012. The Tenant was present during the inspection. The Landlord was not present or represented during the inspection. The Committee members were

George Clark (chair), Geraldine Wooley (surveyor) and John Wolstencroft (housing member).

7. Following the inspection of the Property the Committee held a hearing at Menzieshill Community Centre, Dundee and heard from the Tenant. The Landlord was not present or represented at the hearing.
8. At the conclusion of the hearing, the Committee issued a Repairing Standard Enforcement Order on 12 July 2012.
9. The surveyor member of the Committee re-inspected the Property on 20 November 2012. She reported that, whilst the internal condition of the Property was now good, the landlord had still to make good the bedroom wall as necessary and redecorate. None of the external works required by the Repairing Standard Enforcement Order had been carried out.
10. The Committee re-inspected the Property on the morning of 1 March 2013. The Landlord and Tenant were both present during the inspection.
11. Following the re-inspection, the Committee held a hearing at Douglas Community Centre, Dundee and heard from the Landlord and the Tenant.
12. Following the hearing, the Committee determined to issue a Variation of the Repairing Standard Enforcement Order ("the Variation"), requiring the Landlord to carry out such work as was necessary to repair the leak in the flat roof of the Property which had resulted in water ingress in the area at the top of the internal staircase, to redecorate the wall of the master bedroom adjoining the bathroom and to remove the vegetation from the rear wall of the Property. The work was to be completed within one month of the date of service on the Landlord of the Variation.
13. The Variation of the Repairing Standard Enforcement Order was served on the Landlord on 13 March 2013.
14. The surveyor member of the Committee re-inspected the Property on 30 April 2013. She reported that none of the work required by the Variation had been carried out.

Summary of the issues

15. The issues to be determined are whether the Property meets the repairing standard as laid down in Section 13 of the Act, whether the Landlord has complied with the duties imposed on him by Section 14(1)(b) of the Act and whether the Landlord has carried out the works required by the Repairing Standard Enforcement Order issued on 12 July 2012, as varied by the Variation of Repairing Standard Enforcement Order dated 1 March 2013.

Findings of fact

16. The Committee finds the following facts to be established:-
 - None of the work required by the Variation of Repairing Standard Enforcement Order has been carried out and the Landlord has offered no explanation for the failure to carry out the work within the timescale specified in the Variation.

Reasons for the decision

17. The Committee determined that, despite assurances given by the Landlord at the hearing on 1 March 2013 that the outstanding works would be attended to, no action had been taken to carry out the works within the period specified in the Variation.

Decision

- 18. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 19. The Committee proceeded to issue a Rent Relief Order in terms of Section 27 of the Act, reducing the rent payable under the tenancy by 25%, which the Committee felt fairly reflected the ongoing inconvenience suffered by the Tenant as a result of the Property not being wind and water tight. The Committee appreciated that, at present, the Tenant was not paying rent, as a rent-free period had been agreed between the Landlord and the Tenant to recompense the Tenant for internal refurbishment work being carried out by the Tenant in the Property, but the Committee was mindful of the fact that the rent-free period would end at some date and also that the Landlord might seek to re-let the Property in the event that the Tenant vacated.
- 20. The Committee also decided to serve notice of the failure on the local authority.
- 21. The decision of the Committee was unanimous.

Right of Appeal

- 22. **A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

Effect of section 63

- 23. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

G Clark

Signed Date 30 April 2013
Chairperson